

the plan during the period described in subparagraph (B)(ii).

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any plan or annuity contract which is made—

(I) pursuant to the amendments made by this subsection, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under any provision as so amended, and

(II) on or before the last day of the first plan year beginning on or after January 1, 2016, or such later date as the Secretary of the Treasury may prescribe.

(ii) CONDITIONS.—This subsection shall not apply to any amendment unless, during the period—

(I) beginning on the date that the amendments made by this subsection or the regulation described in clause (i)(I) takes effect (or in the case of a plan or contract amendment not required by such amendments or such regulation, the effective date specified by the plan), and

(II) ending on the date described in clause (i)(II) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect, and such plan or contract amendment applies retroactively for such period.

(C) ANTI-CUTBACK RELIEF.—A plan shall not be treated as failing to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 and section 411(d)(6) of the Internal Revenue Code of 1986 solely by reason of a plan amendment to which this paragraph applies.

(d) MODIFICATION OF FUNDING TARGET DETERMINATION PERIODS.—

(1) INTERNAL REVENUE CODE OF 1986.—Clause (i) of section 430(h)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "the first day of the plan year" and inserting "the valuation date for the plan year".

(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Clause (i) of section 303(h)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)(B)(i)) is amended by striking "the first day of the plan year" and inserting "the valuation date for the plan year".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply with respect to plan years beginning after December 31, 2012.

(2) ELECTIONS.—A plan sponsor may elect not to have the amendments made by subsections (a), (b), and (d) apply to any plan year beginning before January 1, 2014, either (as specified in the election)—

(A) for all purposes for which such amendments apply, or

(B) solely for purposes of determining the adjusted funding target attainment percentage under sections 436 of the Internal Revenue Code of 1986 and 206(g) of the Employee Retirement Income Security Act of 1974 for such plan year. A plan shall not be treated as failing to meet the requirements of section 204(g) of such Act and section 411(d)(6) of such Code solely by reason of an election under this paragraph.

SEC. 10. PREPAYMENT OF CERTAIN PBGC PREMIUMS.

(a) IN GENERAL.—Section 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307) is amended by adding at the end the following new subsection:

"(f) ELECTION TO PREPAY FLAT DOLLAR PREMIUMS.—

"(1) IN GENERAL.—The designated payor may elect to prepay during any plan year the premiums due under clause (i) or (v), whichever is applicable, of section 4006(a)(3)(A) for the number of consecutive subsequent plan years (not greater than 5) specified in the election.

"(2) AMOUNT OF PREPAYMENT.—

"(A) IN GENERAL.—The amount of the prepayment for any subsequent plan year under paragraph (1) shall be equal to the amount of the

premium determined under clause (i) or (v), whichever is applicable, of section 4006(a)(3)(A) for the plan year in which the prepayment is made.

"(B) ADDITIONAL PARTICIPANTS.—If there is an increase in the number of participants in the plan during any plan year with respect to which a prepayment has been made, the designated payor shall pay a premium for such additional participants at the premium rate in effect under clause (i) or (v), whichever is applicable, of section 4006(a)(3)(A) for such plan year. No credit or other refund shall be granted in the case of a plan that has a decrease in number of participants during a plan year with respect to which a prepayment has been made.

"(C) COORDINATION WITH PREMIUM FOR UNFUNDED VESTED BENEFITS.—The amount of the premium determined under section 4006(a)(3)(A)(i) for the purpose of determining the prepayment amount for any plan year shall be determined without regard to the increase in such premium under section 4006(a)(3)(E). Such increase shall be paid in the same amount and at the same time as it would otherwise be paid without regard to this subsection.

"(3) ELECTION.—The election under this subsection shall be made at such time and in such manner as the corporation may prescribe."

(b) CONFORMING AMENDMENT.—The second sentence of subsection (a) of section 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307) is amended by striking "Premiums" and inserting "Except as provided in subsection (f), premiums".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 11. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking "September 30, 2023" and inserting "September 30, 2024"; and

(2) in subparagraph (B)(i), by striking "September 30, 2023" and inserting "September 30, 2024".

SEC. 12. EMERGENCY SERVICES, GOVERNMENT, AND CERTAIN NONPROFIT VOLUNTEERS.

(a) IN GENERAL.—Section 4980H(c) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR CERTAIN EMERGENCY SERVICES, GOVERNMENT, AND NONPROFIT VOLUNTEERS.—

"(A) EMERGENCY SERVICES VOLUNTEERS.—Qualified services rendered as a bona fide volunteer to an eligible employer shall not be taken into account under this section as service provided by an employee. For purposes of the preceding sentence, the terms 'qualified services', 'bona fide volunteer', and 'eligible employer' shall have the respective meanings given such terms under section 457(e).

"(B) CERTAIN OTHER GOVERNMENT AND NONPROFIT VOLUNTEERS.—

"(i) IN GENERAL.—Services rendered as a bona fide volunteer to a specified employer shall not be taken into account under this section as service provided by an employee.

"(ii) BONA FIDE VOLUNTEER.—For purposes of this subparagraph, the term 'bona fide volunteer' means an employee of a specified employer whose only compensation from such employer is in the form of—

"(I) reimbursement for (or reasonable allowance for) reasonable expenses incurred in the performance of services by volunteers, or

"(II) reasonable benefits (including length of service awards), and nominal fees, customarily paid by similar entities in connection with the performance of services by volunteers.

"(iii) SPECIFIED EMPLOYER.—For purposes of this subparagraph, the term 'specified employer' means—

"(I) any government entity, and

"(II) any organization described in section 501(c) and exempt from tax under section 501(a).

"(iv) COORDINATION WITH SUBPARAGRAPH (A).—This subparagraph shall not fail to apply with respect to services merely because such services are qualified services (as defined in section 457(e)(1)(C))."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2013.

EXECUTIVE SESSION

NOMINATION OF FRANCIS XAVIER TAYLOR TO BE UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY

NOMINATION OF L. REGINALD BROTHERS, JR., TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY

NOMINATION OF MARK BRADLEY CHILDRESS TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The assistant legislative clerk read the nominations of Francis Xavier Taylor, of Maryland, to be Under Secretary for Intelligence and Analysis, Department of Homeland Security; L. Reginald Brothers, Jr., of Massachusetts, to be Under Secretary for Science and Technology, Department of Homeland Security; Department of State, Mark Bradley Childress, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tanzania.

Mr. REID. Mr. President, I yield back all time on those nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON TAYLOR NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Francis Xavier Taylor, of Maryland, to be Under Secretary for Intelligence and Analysis, Department of Homeland Security?

The nomination was confirmed.

VOTE ON BROTHERS NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of L. Reginald Brothers, Jr., of Massachusetts, to be Under Secretary for Science and Technology, Department of Homeland Security?

The nomination was confirmed.

VOTE ON CHILDRESS NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Mark Bradley Childress, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

PAYCHECK FAIRNESS ACT— MOTION TO PROCEED

Mr. REID. Mr. President, I now move to proceed to Calendar No. 345, S. 2199.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 2199) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 345, S. 2199, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

Harry Reid, Barbara A. Mikulski, Patty Murray, Richard J. Durbin, Kirsten E. Gillibrand, Brian Schatz, Heidi Heitkamp, Martin Heinrich, Tammy Baldwin, Barbara Boxer, Debbie Stabenow, Mazie Hirono, Kay R. Hagan, Mary Landrieu, Claire McCaskill, Jeanne Shaheen, Dianne Feinstein, Amy Klobuchar.

Mr. REID. Mr. President, I ask unanimous consent the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Colorado.

WIND ENERGY

Mr. BENNET. Mr. President, I come to the floor today to talk about jobs and about one sector in particular that has created tremendous economic growth in Colorado and across the United States, and that is wind energy and the jobs it has brought to our State.

During last Thursday's markup in the Finance Committee, we worked in a bipartisan fashion to include a 2-year extension of the production tax credit, known as the PTC, and the investment tax credit, known as the ITC, for wind energy.

The wind credit has enjoyed broad bipartisan support from both sides of the aisle over a number of years, ranging from its original champion—who continues to be a champion—Senator GRASSLEY from Iowa, to my friend and colleague from Colorado Senator MARK UDALL, who has been a tireless and relentless supporter over the years for wind energy jobs in Colorado. I know he will be a supportive advocate when the extenders bill reaches the floor. If enacted into the law, the extension of the production tax credit and investment tax credit will continue to drive job growth in my State of Colorado.

Sometimes I hear people say the government should not pick winners and losers in their critique of the wind energy tax credits. I actually agree with that notion, but what I would say to people who are listening to this on the TV is that when you hear someone in Washington say you shouldn't pick winners and losers, that is when you should hold onto your wallet. They say that is as if those decisions haven't already been made—as if winners haven't already been produced somewhere deep in the Tax Code in the last century or the regulatory code or the statute books. It is a reminder to ask yourself: Who is more likely to have benefits in this town? Is it the incumbent industries that have been working on these for decade after decade or is it the innovators in our economy? And, of course, time and time again it is the legacy firms that have the upper hand in these debates. I don't blame them for fighting for that advantage. But I also know they are not necessarily going to be the industries that are going to create the 21st century jobs we need, and whether we know it or not that is fundamentally the debate we are having. It is not a left-right debate in this town. It is future versus past debate, and it is critically important to the next generation of Americans that we get this right.

This is an updated version of a chart I have been bringing to the floor for the last 4 years that shows some interesting relationships of lines relating to our economy. The top chart is GDP growth in the United States, and that is the green line. Here is the recession right here. You can see we are actually producing much more as an economy today than when we went into the recession. There is much greater gross domestic product.

This is the unemployment level. You can see at the depths of the recession the destruction in jobs the Presiding Officer saw in his home State, and we saw it in my home State. We were in a very difficult period at that time. We have actually begun to add jobs again, and we are almost back to where we

were. I think we are back to where we were in terms of job creation.

This is a very stubborn and difficult issue for the people at home and the people I represent. This shows what has happened to median family and household income over periods of economic growth and over periods of economic decline. A way of thinking about that line is: What is happening to the middle-class income in this country? What is happening is the growth of middle-class income has decoupled from our economic growth. That, among other causes, has produced the worst income inequality we have seen in this country since 1928, I would argue, with the educational outcomes we have seen for kids, the most significant opportunity gap we have had in our lifetimes.

Why has this happened? There are a variety of reasons, but let me call your attention to this line. This is the productivity index in the United States. This shows how productive and efficient our economy has become. It has become incredibly efficient partly because of the use of technology, that is true, partly because of reaction to competition from overseas from China and India, and partly because the recession itself, which you can see, drove the line straight up because firms had to figure out how to get by with fewer people. That is our challenge. That is our central economic dilemma as we move into the second decade of this 21st century.

It is my view that there are two principal answers to that challenge. The first is education. I am not here to talk about that tonight, but just as a reminder, we are not going to recognize ourselves in this new century if we continue to perpetuate a set of outcomes in our K-12 system where if you are born poor in the United States, your chances of graduating with the equivalent of a college degree are roughly 9 in 100. That is completely unsatisfactory and outrageous, particularly for the kids we are talking about.

The other is innovation. We have to make sure we have the most innovative economy in the United States, and whether we are willing to lead the world; it is the companies that will start next week, the week after that, and the week after that, and the venture-backed companies that are somebody's bright idea today in their garage, but tomorrow could become the next Apple or Google. That is where the job growth and the wage growth is going to come from.

In my view the wind credit cuts right to the core of whether we are going to compete in a global economy. We are not talking about a fly-by-night experimental industry. This credit has triggered tremendous economic growth in Colorado and across the country. In Colorado alone, these tax credits directly support 5,000 jobs.

Vestas, which manufactures wind turbines, employs over 1,400 workers across four factories in our State from Pueblo all the way up I-25 to Brighton